

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5493 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

(No. 1 to 5 NO)

RAMANBHAI MULCHANDBHAI PATEL

Versus

URBAN LAND TRIBUNAL & EX-OFFICIO

Appearance:

MISS V.P.SHAH FOR MR MS RAO for Petitioners

MR. S.P. DAVE, LD.GOV'T.COUNSEL for Respondents

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 05/02/97

ORAL JUDGEMENT

Upon a perusal of the orders pronounced by the Competent Authority dated December 31, 1994, available at Annexure-H and of the Urban Land Tribunal in Appeal No. Surat 23/95 dated June 29, 1996 available at Annexure-I, it appears that the present petition requires a partial recognition, and the matter requires to be remanded to

the Competent Authority for the requisite decision, according to law and on merits.

The litigation of the land concerned have a chequered history. Any how the concentration should be upon the orders pronounced by the Competent Authority on December 31, 1994 available at Annexure-H. It appears that the land holders has submitted the Scheme under section 21(1) of the ULC Act, 1976 in respect of land bearing Survey No. 290 and 292 situated at Village Pal, under the Choryasi taluka of the Surat district, admeasuring about 66470 sq. meters. The Competent Authority was pleased to reject the prayer for such a Scheme under a brief order, by saying that certain land of the land holders were declared to be excess vacant land but that, the holders had asked for the exemption under Section 20(1) of the Act of 1976, saying that the land belongs to a proposed Cooperative Housing Society known as Bhadrakali Cooperative Housing Society. The Competent Authority has noticed that against the orders of rejection in that respect the petitioners have approached this Court and their petition has been admitted and the status quo orders have been ordered. Despite this, the Competent Authority has preferred to say in the orders that, the land holders do not appear to be serious enough in prosecuting their application for the sanctioning of the Scheme under Section 21(1) of the Act of 1976, and therefore, the chapter was required to be closed. This orders of the Competent Authority came to be confirmed by the Urban Land Tribunal in Appeal No. Surat 23/95 under the orders dated June 29, 1996, available at Annexure-I.

A combined reading of both the orders would go to show that the petitioners had presented the Scheme under Section 21(1) of the ULC Act 1976, and that, their prayer in respect of exemption under Section 20(1) of the Act of 1976 was pending before this Court. More over the say of the Competent Authority that, the land holders were not serious enough in prosecuting their petition for the Scheme does not appear to be genuine and well founded.

It appears that the purpose would be served if the said orders at Annexure H & I are quashed and set aside, and the matter is retransmitted to the Competent Authority for the decision, according to law and on merits. This should be done by the Competent Authority after affording a reasonable opportunity of being heard to the petitioners and to submit the necessary material and to fulfil the obligations lying upon them under the legal position. I therefore order accordingly. Rule is

made to the above said extent, with no order as to cost.
